

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHAMAR AVERY,

Petitioner,

v.

JOHN PRELESNIK,

Respondent.

Case No. 1:04-CV-289

Hon. Richard Alan Enslen

WRIT OF HABEAS CORPUS

In accordance with the Opinion entered this date,

IT IS HEREBY ORDERED that Respondent John Prelesnik's Objections to the Report and Recommendation (Dkt. No. 38) are **DENIED**, Petitioner's Objections to the Report and Recommendation (Dkt. No. 39) are **DENIED**, and the Report and Recommendation (Dkt. No. 37) is **ADOPTED**.

IT IS FURTHER ORDERED that Petitioner Chamar Avery's Petition for Writ of Habeas Corpus (Dkt. No. 1) is **GRANTED**.

IT IS FURTHER ORDERED that the Respondent shall either release Petitioner from custody or afford him a new trial within 120 days of the issuance of this Writ.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED** as to Petitioner's failure to object to hearsay evidence claim.

DATED in Kalamazoo, MI:
November 8, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE